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EXAMINER

NGUYEN, HAI V

ART UNIT PAPER NUMBER

2142

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/401,221

Applicant(s)

ATES, GORKEM I.

Examiner

Hai V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This Action is in response to the Reply and Appellant's Brief received on 19 February 2003.
2. Claims 1-6 are presented for re-examination.
3. Applicant's request for reconsideration of the finality of the rejection of the last Office Action is persuasive and, therefore, the finality of that Action is withdrawn.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 4 recites the limitation of "h)... if answer to STEP 5 is no" in claim 4. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brendel et al. patent no. 5,774,660** in view of **Leighton et al. patent no. 6,108,703**.

8. As to claim 4, Brendel discloses a method for using an Internet system, comprising the steps of:

a) making a request for information, over the Internet, by a client, to the a main server (*Fig. 8, server 56*) of the Internet system and not to the said at least one participant server (*Fig. 8, server 51, 52*) (*Brendel, the load balancer waits for a URL request from the client once the load balancer has made the connection with the client, (col. 6, lines 65-67)*);

b) examining an IP address of the client, by said main server (the load balancer receives the URL request from the client and decodes the URL request to determine the requested resource, (*Brendel, col. 6, line 63 – col. 7, line 30*));

c) seeking at least one participant server of the Internet system, by said main server, so as to form an at least one nearest participant server (*Brendel, the assigned node is selected based on a location of the requested resource determined from the URL request, (Brendel, col. 6, line 63 – col. 7, line 30)*);

d) requesting over the Internet, by said main server acting like an orchestra leader, that said at least one nearest participant server sent the requested information (the resource) to the client, packet-to-packet, over the Internet (*Brendel, the load balancer chooses an assigned node based on the resources contained by each network nodes. The assigned node reads the requested resource and transmits it to the client, (Brendel, col. 6, line 20 – col. 7, line 30)*);

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e) determining if said at least one nearest participant server has the requested information (*Brendel, the load balancer determines an assigned server in plurality of network nodes to respond to a request from the client contained in an incoming data packet, (Brendel, col. 6, line 20 – col. 7, line 30))*;

f) labeling, by said at least one nearest participant server, each packet with an IP address of said main server, which enables the client which has a port only for main server addresses to accept said packets, if answer to step e) is YES (*Brendel, the packets received from the client are TCP/IP packets having a destination IP address which is a virtual IP address of the load balancer, (Brendel, col. 6, line 20 – col. 7, line 30); and Brendel also discloses that the balancer network node is in the plurality of network nodes containing web servers. The web site is addressable by one network address for all web servers in plurality of network nodes containing web servers. (Brendel, col. 6, lines 20-52))*;

g) sending the requested information with said IP address of said main server, by said at least one nearest participant server, to the client, over the Internet (*Brendel, col. 6, line 63 – col. 7, line 30*); However, Brendel does not teach explicitly downloading the requested information from said main server to said at least one nearest participant server, which will distribute the load of said main server to said at least one participant server when lacking multicasting so as to save costs, by virtue of said at least one participant server being relatively easy and inexpensive to add as compared to clustering more servers to said main server, if answer to STEP e) is NO. Thus, the artisan would have been motivated to look to the related networking art for

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potential system for implementing the downloading the requested information from said main server to said at least one nearest participant server, which will distribute the load of said main server to said at least one participant server when lacking multicasting so as to save costs, by virtual of said at least one participant server being relatively easy and inexpensive to add as compared to clustering more servers to said mains server, if answer to STEP 5) is NO.

In the same field of endeavor, Leighton, related Global Hosting System, discloses in an analogous art (e.g., content distribution), *Leighton discloses that the inventive framework allows a Content Provider to replicate its most popular content at an unlimited number of points throughout the world. The actual content that is replicated at any one geographic location is specifically tailored to viewers in that location. Content is automatically sent to the location where it is requested, without any effort or overhead on the part of a Content Provider. A base HTML document portion of a Web page is served from the Content Provider's site while one or more embedded objects for the page are served from the hosting servers, preferably, those hosting servers nearest the client machine (col. 2, line 25 – col. 4, line 22). Leighton also discloses that global hosting according to the present invention also allows an ISP to control how and where content transverses its network. Global hosting servers can be set up at the edges of the ISP's network (at the many network exchange and access points, for example). This enables the ISP to server content for sites that it hosts directly into the network exchange points and access points. Expensive backbone links no longer have to carry redundant traffic from the content provider's site to the network exchange and access*

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*points. Instead, the content is served directly out of the ISP's network, freeing valuable network resources for other traffic (Leighton, col. 13, lines 35-61).*

Accordingly, it would have been obvious to one of ordinary skill in the Data networking art at the time of the invention to incorporate the teachings of Brendel with Leighton's teachings, for the purpose of *allowing the hosting scheme to be far more efficient than schemes that cache everything everywhere, or that cache objects only in pre-specified locations (Leighton, col. 3, lines 42-57) and unlimited cost effective scalability (Leighton, col. 14, line 62 – col. 15, line 13). Leighton also suggests that content is automatically replicated to the global server network in an intelligent and efficient fashion. Content is replicated in only those locations where it is needed (Leighton, col. 14, lines 25-49). Leighton also suggests that improving the Web site performance and avoiding the expensive backbone links to carry redundant traffic from the Content Provider's Web site to the network exchange and access points (Leighton, col. 13, line 62 – col. 14, line 49).*

i) returning to step f).

9. As to claim 5, Brendel-Leighton discloses wherein said step of making a request for information, over the Internet, by the client, from the main server includes making the request for at least one of a streaming video and audio, over the Internet, by the client, from the main server (*Brendel, col. 8, lines 63-67; col. 9, lines 1-16*)).

10. As to claim 6, Brendel-Leighton discloses wherein said step of seeking the nearest at least one participant server, by said main server, so as to form an at least one nearest participant server includes seeking the nearest at least one nearest participant

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server, by said main server, so as to form said at least one nearest participant server that has the most bandwidth and CPU and other serving requirements needed to furnish the requested information to the client (*Brendel, Fig. 7, the load balancer 54 keeps track of which requests are being processed by each server in server farm 50, and attempts to balance the load of requests among the servers, col. 9, lines 30-32*); *Fig. 8, the load balancer 70 determines that only server 52 and not servers 56, 51 can handle the request, col. 10, lines 54-59*). Leighton also discloses in *Fig. 3* that when the HTML request for the page is received, the based HTML document is served by the Web site and some portion of the page's embedded objects are served from the hosting servers near (although not necessarily the closest) to the client machine that initiates the request (*Leighton, col. 3, lines 66 – col. 4, line 22*).

11. As to claim 1, Brendel-Leighton discloses an Internet system, comprising:

a main server (*Brendel, Fig. 7; server 54; Figs. 8, 19, server 56; Leighton, Fig. 3, item 44, network access point*) for storing information to be requested over the Internet (*Brendel, Figs. 8, 19, Internet cloud 66*) by a client (*Brendel, Figs. 8, 19, Client browser 10; Leighton, Figs. 1, 3, client 10*) so as to form a request for information and having an IP address (*Brendel, Figs. 7, 8, IP=230.101.17.200*); and

at least one participant server having an IP address (*Brendel, Fig. 7, server 52 having IP= 230.101.17.102; Figs. 8, 19, server 52 having IP = 230.101.17.102*) and electrically communicating with said main server; said at least one participant server not receiving the request for information from the client, but rather said main server receiving the request for information over the Internet from the client



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and requesting over the Internet that said at least one participant sever send the requested information over the Internet back to the client (*the load balancer determines an assigned server in the plurality of network nodes to respond to the request from the client contained in an incoming data packet. The load balancer transfers a connection to the client to the assigned server. The assigned node reads the requested resource and transmits the requested resource to the client (col. 6, line 20-col. 7, line 30); the assigned servers can also be located remotely from the load balancer, such as over a WAN using this technique (Brendel, col. 9, lines 52-64; col. 10, lines 28-52; col. 11, lines 64-67; col. 12, lines 1-5; col. 17, lines 5-8; col. 20, lines 35-63); and servers in the web farm may be geographically remote, where some of the servers are located in one city while other servers are located in other cities. Load balancing may be performed not just based on content, but also geographically to minimize traffic on the network backbone (Brendel, col. 20, lines 35-47)*), and if said at least one participant server does not have the requested information, the requested information is downloaded from said main server to said at least one participant server (*Leighton, Leighton discloses that the inventive framework allows a Content Provider to replicate its most popular content at an unlimited number of points throughout the world. The actual content that is replicated at any one geographic location is specifically tailored to viewers in that location. Content is automatically sent to the location where it is requested, without any effort or overhead on the part of a Content Provider. A base HTML document portion of a Web page is served from the Content Provider's site while one or more embedded objects for the page are served from the hosting servers, preferably, those hosting servers nearest the*

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*client machine (col. 2, line 25 – col. 4, line 22). Leighton also discloses that global hosting according to the present invention also allows an ISP to control how and where content transverses its network. Global hosting servers can be set up at the edges of the ISP's network (at the many network exchange and access points, for example). This enables the ISP to server content for sites that it hosts directly into the network exchange points and access points. Expensive backbone links no longer have to carry redundant traffic from the content provider's site to the network exchange and access points. Instead, the content is served directly out of the ISP's network, freeing valuable network resources for other traffic (Leighton, col. 13, lines 35-61), and when said at least one participant server sends the requested information over the Internet back to the client, said at least one participant server assigns to the requested information said IP address of said main server and not said IP address of said at least one participant server (Brendel, the packets received from the client are TCP/IP packets having a destination IP address which is a virtual IP address of the load balancer, (Brendel, col. 6, line 20 – col. 7, line 30); and Brendel also discloses that the balancer network node is in the plurality of network nodes containing web servers. The web site is addressable by one network address for all web servers in plurality of network nodes containing web servers, (Brendel, col. 6, lines 20-52)).*

12. As to claim 2, Brendel-Leighton discloses, wherein said main server is a TCP/IP server and assigns jobs to said at least one participant server dynamically without relocating the client using neither HTTP nor HTML commands so as to take relocating process away from top networking OSI layers to 3<sup>rd</sup> level of Internet working OSI that is

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IP so as to enable starting downloading of the requested information from one of said at least one participant servers and finishing the downloading from another of said at least one participant server without ever noticing server alternation by virtue of said at least one participant server assigning to the requested information said IP address of said main server and not said IP address of said at least one participant server (*Brendel, col. 6, line 20 - col. 7, line 30; col. 9, line 17 – col. 10, line 52*).

13. As to claim 3, Brendel-Leighton discloses, wherein said top networking OSI is at least one of TCP, HTTP, and application level (*Brendel, Figs. 12, 13, 17*).

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14. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 703-306-0276. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Powell can be reached on 703-305-9703. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800/4700

KENNETH R. COULTER

PRIMARY EXAMINER



Hai V. Nguyen

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HN

